

111TH CONGRESS
1ST SESSION

H. R. 3110

To provide United States citizenship for children adopted from outside the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 26, 2009

Ms. WATSON (for herself and Mr. BOOZMAN) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Foreign Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide United States citizenship for children adopted from outside the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Foreign Adopted Chil-
5 dren Equality Act” or the “FACE Act”.

1 **SEC. 2. CITIZENSHIP FOR CHILDREN ADOPTED FROM OUT-**
2 **SIDE THE UNITED STATES.**

3 (a) IN GENERAL.—Section 320(b) of the Immigra-
4 tion and Nationality Act (8 U.S.C. 1431(b)) is amended
5 to read as follows:

6 “(b) CITIZENSHIP FOR CHILDREN ADOPTED FROM
7 OUTSIDE THE UNITED STATES.—

8 “(1) IN GENERAL.—A child born outside the
9 United States automatically becomes a citizen of the
10 United States if the Secretary of State is satisfied
11 that all of the following conditions are met:

12 “(A) The child is adopted by a parent who
13 is a citizen of the United States.

14 “(B) The child is younger than 18 years of
15 age.

16 “(C) It is determined that each adopting
17 parent is eligible and suitable to adopt the
18 child, including determining that the parent is
19 able to support the child and has undergone an
20 appropriate criminal background check.

21 “(D) Prior to the adoption, the child was
22 an unmarried individual younger than 18 years
23 of age—

24 “(i)(I) whose biological parents (or
25 parent, in the case of an individual who
26 has 1 sole or surviving parent) or other

1 person or institution that retains legal cus-
2 tody of the individual—

3 “(aa) have freely given their writ-
4 ten irrevocable consent to the termi-
5 nation of their legal relationship with
6 the individual, and to the individual’s
7 emigration and adoption and that
8 such consent has not been induced by
9 payment or compensation of any kind
10 and has not been given prior to the
11 birth of the individual;

12 “(bb) are unable to provide prop-
13 er care for the individual, as deter-
14 mined by the competent authority of
15 the individual’s residence; or

16 “(cc) have voluntarily relin-
17 quished the individual to the com-
18 petent authorities pursuant to the law
19 of the individual’s residence; or

20 “(II) who, as determined by the com-
21 petent authority of the individual’s resi-
22 dence—

23 “(aa) has been abandoned or de-
24 serted by the individual’s biological
25 parents or legal guardian; or

1 “(bb) has been orphaned due to
2 the death or disappearance of the in-
3 dividual’s biological parents or legal
4 guardian; and

5 “(ii) with respect to whom the Sec-
6 retary of State—

7 “(I) is satisfied that the proper
8 care will be furnished the individual if
9 admitted to the United States;

10 “(II) is satisfied that the purpose
11 of the adoption is to form a bona fide
12 parent-child relationship and that the
13 parent-child relationship of the indi-
14 vidual and the biological parents has
15 been terminated (and in carrying out
16 both obligations under this subpara-
17 graph, the Secretary of State, in con-
18 sultation with the Secretary of Home-
19 land Security, may consider whether
20 there is a petition pending to confer
21 immigrant status on 1 or both of the
22 biological parents);

23 “(III) is satisfied that there has
24 been no inducement, financial or oth-
25 erwise, offered to obtain the consent

1 nor was it given before the birth of
2 the individual; and

3 “(IV) in consultation with the
4 Secretary of Homeland Security, is
5 satisfied that the individual is not a
6 security risk.

7 “(2) CITIZENSHIP FROM BIRTH.—An individual
8 who becomes a citizen of the United States pursuant
9 to paragraph (1) shall be deemed to have been a cit-
10 izen of the United States at birth and shall be
11 issued a United States Consular Report of Birth.

12 “(3) SPECIAL RULE FOR ADOPTEES WHO ARE
13 OLDER THAN 18 YEARS OF AGE.—

14 “(A) IN GENERAL.—A person described in
15 subparagraph (B) shall be deemed to have been
16 a citizen of the United States at birth after the
17 approval of an application filed within the
18 United States or with a United States Em-
19 bassy.

20 “(B) PERSON DESCRIBED.—A person de-
21 scribed in this clause is a person who—

22 “(i) is older than 18 years of age;

23 “(ii) was born outside the United
24 States and was adopted by a parent who is
25 a citizen of the United States before the

1 date on which the person reached 18 years
2 of age; and

3 “(iii) was described in subparagraph
4 (E), (F), or (G) of section 101(b)(1).

5 “(4) NO LIABILITY FOR PRIOR TAXES.—An in-
6 dividual who becomes a citizen of the United States
7 pursuant to paragraph (1) or (3) may not be liable
8 for any taxes that the individual would have paid to
9 the United States as a citizen of the United States
10 before the date on which the individual becomes
11 such a citizen.”.

12 (b) CONFORMING AMENDMENTS.—

13 (1) HEADING.—The heading of section 320 of
14 the Immigration and Nationality Act (8 U.S.C.
15 1431) is amended to read as follows:

16 “CHILDREN BORN OUTSIDE THE UNITED STATES;
17 CONDITIONS UNDER WHICH CITIZENSHIP IS ACQUIRED”.

18 (2) SECTION 301 OF THE IMMIGRATION AND NA-
19 TIONALITY ACT.—Section 301 of the Immigration
20 and Nationality Act (8 U.S.C. 1401) is amended—

21 (A) in subsection (g), by striking “and” at
22 the end;

23 (B) in subsection (h), by striking the pe-
24 riod at the end, inserting a semicolon and
25 “and”; and

1 (C) by adding at the end the following:

2 “(i) a person deemed a citizen at birth pursuant to
3 section 320(b).”.

4 (c) CLERICAL AMENDMENT.—The table of contents
5 of the Immigration and Nationality Act is amended by
6 striking the item relating to section 320 and inserting the
7 following:

“Sec. 320. Children born outside the United States; conditions under which
citizenship acquired.”.

8 **SEC. 3. NONIMMIGRANT STATUS FOR CHILDREN BROUGHT**
9 **TO THE UNITED STATES TO BE ADOPTED.**

10 Section 101(a)(15) of the Immigration and Nation-
11 ality Act (8 U.S.C. 1101(a)(15)) is amended—

12 (1) in subparagraph (U), by striking “or” at
13 the end;

14 (2) in subparagraph (V), by striking the period
15 at the end and inserting “; or”; and

16 (3) by adding at the end the following:

17 “(W) an individual brought to the United
18 States as a child to be adopted by a citizen of
19 the United States.”.

20 **SEC. 4. APPEAL OF NOTICE OF INTENT TO DENY AN ADOPT-**
21 **ION.**

22 (a) REQUIREMENT TO PROVIDE OPPORTUNITY TO
23 APPEAL.—If the Secretary of State determines that a cov-
24 ered individual is not eligible to be adopted by a citizen

1 or national of the United States on the basis that the con-
2 ditions described in subsection (c) are not met, the Sec-
3 retary shall provide—

4 (1) a notice of intent to deny the adoption of
5 the child to such citizen or national of the United
6 States; and

7 (2) an opportunity for such citizen or national
8 to appeal the determination.

9 (b) COVERED INDIVIDUAL DEFINED.—In this sec-
10 tion, the term “covered individual” means an individual
11 who—

12 (1) is younger than 18 years of age;

13 (2) was born in a foreign country; and

14 (3) is seeking to be adopted by a parent who is
15 a citizen or national of the United States.

16 (c) CONDITIONS FOR ADOPTION.—The conditions de-
17 scribed in this subsection are met if—

18 (1) the covered individual’s biological parents
19 (or parent, in the case of an individual who has 1
20 sole or surviving parent) or other person or institu-
21 tion that retains legal custody of the covered indi-
22 vidual—

23 (A) have freely given their written irrev-
24 ocable consent to the termination of their legal
25 relationship with the individual, and to the indi-

vidual's emigration and adoption and that such consent has not been induced by payment or compensation of any kind and has not been given prior to the birth of the individual;

(B) are unable to provide proper care for the individual, as determined by the competent authority in the country of the individual's residence; or

(C) have voluntarily relinquished the individual to the competent authorities pursuant to the law of the country of the individual's residence; or

(2) the covered individual, as determined by the competent authority in the country of the individual's residence—

(A) has been abandoned or deserted by the individual's biological parents or legal guardian; or

(B) has been orphaned due to the death or disappearance of the individual's biological parents or legal guardian.

SEC. 5. RULE OF CONSTRUCTION.

Nothing in this Act, or in any amendment made by this Act, may be construed to—

1 (1) abrogate any citizenship rights provided to
2 an adoptee by the adoptee's country of origin; or

3 (2) nullify the facts of the adoptee's birth his-
4 tory.

5 **SEC. 6. SENSE OF CONGRESS.**

6 It is the sense of Congress that the government of
7 each foreign country from which children are adopted by
8 citizens of the United States should provide documenta-
9 tion of the adopted children's original birth history to the
10 adoptive family in accordance with the laws of such coun-
11 try.

